

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

**Maria Martha De Montanaro
Luis Enrique De Montanaro,**

DEBTORS

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11-50303-L2-13

CHAPTER 13

DEBTORS' MOTION TO MODIFY A CONFIRMED PLAN

"January 11, 2013"

Notice of Time to Object and Notice of Hearing

IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING AND YOU MUST RESPOND SPECIFICALLY TO EACH PARAGRAPH OF THIS PLEADING. YOU MUST FILE YOUR OBJECTION WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN 20 DAYS FROM THE DATE YOU WERE SERVED AND GIVE A COPY TO THE PERSON WHO SENT YOU THE NOTICE. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF.

IF A PARTY REQUESTS EMERGENCY CONSIDERATION, THE COURT MAY ACT EXPEDITIOUSLY ON THE MATTER. IF THE COURT ALLOWS A SHORTER RESPONSE TIME THAN TWENTY (20) DAYS, YOU MUST RESPOND WITHIN THAT TIME. IF THE COURT SETS AN EMERGENCY HEARING BEFORE THE RESPONSE TIME WILL EXPIRE, ONLY ATTENDANCE AT THE HEARING IS NECESSARY TO PRESERVE YOUR RIGHTS. IF AN EMERGENCY HEARING IS NOT SET, YOU MUST RESPOND BEFORE THE RESPONSE TIME EXPIRES.

IF AN OBJECTION TO THIS PROPOSED MODIFICATION IS FILED, THEN A HEARING ON THIS PROPOSED MODIFICATION IS SET FOR January 11, 2013, AT 9:00 A.M. O'CLOCK OR THEREAFTER, THE EXACT TIME WILL BE POSTED ON WWW.13NETWORK.COM/HOUHOME.HTM AT LEAST 3 DAYS PRIOR TO THE HEARING, IN THE COURTROOM LOCATED AT 1300 VICTORIA ST., COURTROOM 3C, LAREDO, TEXAS. IF AN OBJECTION IS NOT FILED WITHIN 20 DAYS FROM THE SERVICE OF THIS MOTION, THE COURT MAY CONSIDER THIS MOTION WITHOUT THE NECESSITY OF A HEARING.

NOW COME, the Debtors, Maria Martha De Montanaro and Luis Enrique De Montanaro, and file this Motion to Modify their confirmed plan.

1. **HISTORY OF THE CASE.** This case was filed on December 29, 2011. The plan was confirmed on March 26, 2012.
2. **REASON FOR MODIFICATION.** Debtors are seeking to modify their confirmed Chapter 13 Plan in order to provide in full for the arrears, interest and on-going monthly mortgage payment as specified in the secured proof of claim filed by U.S. Bank National Association (on or about June 14, 2012). The secured proof of claim, filed by U.S. Bank National Association, outlines an arrearage claim of \$5,411.39, with an interest rate of 9.5% and an on-going

mortgage payment in the amount of \$739.94. Debtors are additionally seeking to modify their confirmed Chapter 13 Plan in order to cure their post-petition arrearages on their payments to the Trustee. Debtors have a reasonable basis to believe that they will be able to comply with the terms of the modified plan.

3. **PLAN PAYMENTS UNDER CONFIRMED PLAN.** The current plan (as modified through this date) requires payment as follows:

a.	Months:	1-4	Payments:	\$757.00
b.	Months:	5-60	Payments:	\$1,054.00

4. **PAYMENTS PREVIOUSLY MADE.** As of the date this motion was filed, the Debtors have made payments to the chapter 13 trustee totaling \$10,256.64.

5. **FUTURE PROPOSED PLAN PAYMENTS (AS MODIFIED).** The proposed modified plan requires future payments as follows:

a.	Months:	1-12	Payments:	\$852.85
b.	Months:	13-60	Payments:	\$1,300.00

6. **CURRENT DEFAULTS.** The Debtors are currently In default default on payments to the Chapter 13 Trustee as follows:

Dollar amount in default:	\$149.36
Number of months in default:	0.14
Last payment made:	December 11, 2012
Amount of last payment:	\$875.25

7. **PROPOSED PLAN MODIFICATIONS:**

- a. All payment defaults set fourth in paragraph 6 are cured by this modification.
- b. New Payment amount of \$1,300.00 to begin January 2013.
- c. To cure Debtors' post-petition defaults.
- d. To disallow all Unsecured Creditors who did not file timely Proof of Claims.

8. **INTERIM PAYMENTS.** Payments due under this modification will commence on the first due date after this modification is filed, whether or not the modification has yet been approved by the Court.

9. **BUDGET.** The Debtors' schedules "I" and "J" that the Debtors request to be considered with this modification are attached as Exhibit "A".

10. **ATTORNEYS FEES. (Check One):**

 Debtors' counsel shall be paid \$450.00 as a fixed fee for this modification. This box may not be checked if the modification was proposed within 120 days of the date on which the plan was confirmed.

 X If Debtors' counsel seeks compensation, a separate application will be filed. If no application is filed, no compensation will be paid.

Dated: December 12, 2012

/s/Maria Martha De Montanaro
Debtor

/s/Luis Enrique De Montanaro
Debtor

Respectfully submitted,
LAW OFFICES OF
FERNANDO D. GUTIERREZ, JR.
604 Matamoros St.
Laredo, Texas 78040
(956) 726-0041
(956) 726-3025 *Facsimile*

/s/ Fernando D. Gutierrez, Jr.
Fernando D. Gutierrez, Jr.
State Bar No. 08641300
S.D. Tex. Bar No. 5241
Attorney for Debtors

CERTIFICATE OF SERVICE

I certify that on December 12, 2012, a true and correct copy of the Debtors' Motion to Modify Confirmed Plan, Plan Summary and Statistical Cover Sheet to Proposed Plan, Uniform Plan and Motion for Valuation of Collateral, and Modified Schedules I & J were served by regular U.S. Mail, postage prepaid and/or by electronic or facsimile transmission on the Debtor, U.S. Trustee, Chapter 13 Trustee, and all creditors as specified on the attached Service List.

/s/ Fernando D. Gutierrez, Jr.
Fernando D. Gutierrez, Jr.

CHAPTER 13 TRUSTEE:

William E. Heitkamp
9821 Katy Freeway, Ste. 590
Houston, TX 77024

U.S. TRUSTEE:

Hector Duran
515 Rusk, Ste. 3516
Houston, TX 77002

DEBTORS:

Maria Martha and Luis Enrique De Montanaro
124 Dolphin Ln.
Laredo, TX 78043

Label Matrix for local noticing
0541-5
Case 11-50303
Southern District of Texas
Laredo
Mon Dec 10 14:15:17 CST 2012

Carrington Mortgage Services
1610 E. St. Andrew Place, Suite B150
Santa Ana, CA 92705-4931

Recovery Management Systems Corporation
25 S.E. 2nd Avenue
Suite 1120
Miami, FL 33131-1605

5
United States Bankruptcy Court
1300 Victoria Street
Laredo, TX 78040-5019

Brice, Vander Linden & Wernick PC
9441 LBJ Freeway, Suite 250
Dallas, TX 75243-4640

Carrington Mortgage Services
1610 E. St. Andrews Place #B150
Santa Ana, CA 92705-4931

Citimortgage, Inc.
P.O. Box 9438
Gaithersburg, MD 20898-9438

INTERNAL REVENUE SERVICE (Chapter 13 Notice)
P O Box 7346
Philadelphia PA 19101-7346

Main Street Acquisiton
3950 Johns Creek Court
Suwanee, GA 30024-1296

Midland Credit Management
8875 Aero Dr.
San Diego, CA 92123-2255

(p)PORTFOLIO RECOVERY ASSOCIATES LLC
PO BOX 41067
NORFOLK VA 23541-1067

US Trustee
Office of the US Trustee
515 Rusk Ave
Ste 3516
Houston, TX 77002-2604

Fernando D Gutierrez Jr
Attorney at Law
604 Matamoros St
Laredo, TX 78040-5120

Luis Enrique De Montanaro
124 Dophin Ln.
Laredo, TX 78043-4720

Maria Martha De Montanaro
124 Dophin Ln.
Laredo, TX 78043-4720

William E. Heitkamp
Office of Chapter 13 Trustee
9821 Katy Freeway
Ste 590
Houston, TX 77024-1294

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Portfolio Recovery
Attn: Bankruptcy
P.O. Box 41067
Norfolk, VA 23541

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Economy Finance

(d)Recovery Management Systems Corporation
25 S.E. 2nd Avenue, Suite 1120
Miami, FL 33131-1605

End of Label Matrix
Mailable recipients 15
Bypassed recipients 2
Total 17